IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

: O R D E R :

Sahab Ram Vs. Board of Revenue & Others.
(S.B. Civil Writ Petition No.1730/2004)

DATE OF ORDER : April 6th, 2007

P R E S E N T

Hon'ble Mr. Justice Gopal Krishan Vyas

Mr. (Dr.) S.S. Jodha for the petitioner.
Mr. G.R. Punia for respondents.

BY THE COURT :

By this petition, the petitioner has challenged the judgment dated 16.09.2003 passed by the Board of Revenue in the revision petition filed by respondent No.4 Safi Mohammed.

According to facts of the case, respondent No.5 being permanent allottee of 21 bigha land of Muraba 90/13 in Chak 2 M.W.M., applied for the remaining 4 bigha land of the said Muraba and the said land was allotted to him. Respondent No.4 Safi Mohammed challenged the said allotment by way of filing application before the allotting authority and on 15.12.1987 the

allotting authority cancelled the allotment made in favour of respondent No.5. Respondent No.5 filed appeal which was allowed by the Revenue Appellate Authority vide order dated 13.01.1997 and order dated 15.12.1987 was set aside by the learned Revenue Appellate Authority. While allowing the appeal of respondent No.5 it was held by the Revenue Appellate Authority that the land in question is small patch of land and the same could not be allotted by way of general allotment. It was further held that since 1982 the respondent No.4 has not taken possession of the land in question nor the same is recorded in his name.

The said order of the Revenue Appellate Authority dated 13.01.1997 was further challenged before the Board of Revenue; but, in the meantime, the petitioner purchased 21 bigha khatedari land from respondent No.5 on 01.08.1994 and he being thus khatedari possessor of the land applied for that small patch of land and on 05.06.1997 the petitioner was allotted the said 4 bigha of land. But, according to the petitioner, without considering all these aspects of the matter, the Board of Revenue in the revision petition, decided by common order dated 16.09.2003, set aside the order passed by the Revenue Appellate Authority in appeal filed by Safi Mohammed dated 14.12.1998 and held that Safi Mohammed is the person in whose

favour the said land was initially allotted for the first time and held that the said 4 bigha small patch of command land in Muraba 90/13 was not to be allotted to any one else because it had already been allotted to Safi Mohammed.

Learned counsel for the petitioner contended that the judgment of the Board of Revenue is erroneous because the petitioner is purchaser of the land from the khatedar Khinya Ram but this aspect of the matter has not been considered by the Board of Revenue.

Per contra, learned counsel for respondent No.4 contended that the allotment made in favour of Khinya Ram has also been set aside by the Revenue Appellate Authority and the said judgment of the Revenue Appellate Authority was also under challenge in yet another revision petition decided by the Board of Revenue by the common judgment. The learned Board of Revenue has upheld the said order of cancellation of the allotment made in favour of Khinya Ram and upheld the order passed by the Revenue Appellate Authority dated 13.01.1997.

In these circumstances, there is no question of claiming right by the petitioner that he is purchaser of the land from Khinya Ram. Likewise, the learned Board of Revenue vide the impugned judgment has rightly held in its finding that Safi Mohammed (respondent No.4 herein) was the original allottee of

the said land and there is no question of re-allotment of the same land, therefore, it held that there is no right vested in favour of either Sahab Ram or Khinya Ram in respect of the land in question. I see no reason to interfere in the judgment passed by the Board of Revenue.

Consequently, the writ petition is dismissed.

(Gopal Krishan Vyas) J.